

Bonnie Goodell

Planning for Sustainability

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August 8, 2000

Ms. Merrily Friedlander, Chief
Coordination and Review Section
Civil Rights Division
United States Department of Justice
P.O. Box 66560
Washington, D.C. 20035-6560

17R-00-R9

Regarding: Civil Rights Complaint against the State of Hawaii and the County of Hawaii, for discriminatory denial of emergency and drought services to low-income citizens in the Hawaii Drought Plan (Phase I). Addition to complaint filed July 19, 2000.

Dear Ms. Friedlander,

I am making this complaint to you as well as copying it to a number of other federal agencies, because of a broad, complex pattern of discrimination that is manifested in the Draft *Hawaii Drought Plan*. It involves denial of services, including virtually all federal funding and oversight, to a large class of low-income residents. I request **expedited investigation** of this complaint. The discrimination is extreme and ongoing.

The usual planning pattern has been to channel community input to drafts, which are brought out at the last minute, on a tight schedule, at a distant location, as has happened with the *Drought Plan*. When basic information is challenged, inaccuracies are acknowledged, but the community is begged to not "make trouble," with a promise to do better next time. This cycle is endlessly repeated, with the false data from one approved plan justifying its use in the next plan. **I am making my complaint now, at the draft stage, in order to prevent a repeat of this intentionally discriminatory pattern.**

The communities denied services, over 70,000 of 130,000 buildable parcels on Hawaii Island, are in large, 40-year old subdivisions, mostly in Puna and Ka'u Districts.

Government is state or county; towns or utility districts do not exist in Hawaii.

- These subdivisions are among the fastest growing, most disadvantaged communities in Hawaii State. Their population of over 12,000 households is largely native Hawaiian families; it is the fastest growing native-Hawaiian community in the State.

- With approximately 20% of lots built upon, these subdivisions have over **20% of Hawaii Island's population.**

- Their **1% share of County firefighters** is three of 280 firefighters.

- There are **no County police stations** or police in or planned for these communities.

- They have **less than .5% of County parks** - four out of 880 acres.

- **No State public schools** are located in the subdivisions, even though their population is the youngest in the state. They are refused planning for their needs while future subdivisions of large landowners are provided schools in advance of subdivision, as matter of policy within the State-operated public schools.

- **None of the 41 publicly-funded water wells** provide water for these subdivisions, and they have been repeatedly refused wells by the State which has provided almost all the public water source development on the island. See attachment.
- **With over 70,000 parcels, four parcels are zoned for commercial development.**

The *Hawaii Drought Plan* exemplifies the overall strategy for denying all services to these communities, including access to federal funding, by making them invisible in the planning process. These include all sources of federal funding listed in the *Hawaii Drought Plan*, including FEMA, USDA, the Corps of Engineers, the Small Business Administration, and the Department of the Interior Bureau of Reclamation. The discrimination against these subdivisions' residents is pervasive throughout the whole State and County planning system. Since they are denied services in the first place, they are then denied all federal assistance in an emergency. This is how it works:

- Although these 70,000+ parcels are primarily used for residential development, they also have intensive agriculture and home businesses. In a state where less than 10% of farmers own their land, they contain the vast majority of sites for owner-operated intensive farms. On State planning maps they are in the Agricultural District. On County planning maps, they are show as "Extensive Agriculture and Orchards."
- When they ask for assistance to develop agricultural water systems through state or federal programs, they are told they are not eligible because their actual use is residential. When they ask for assistance for water for residential use, schools, parks, or businesses, they are told they are not eligible because they are zoned for agriculture, and the state and the county have no plans to provide them with any services.
- In forty years in which the State and County have planned for no services for these communities, schools, parks, police and fire stations, transportation and public water supplies, have been and continue to be routinely provided for planned future developments of politically powerful large landowners.
- By denying water development that is provided routinely to wealthier communities, denial of zoning for economic development is justified. Therefore businesses and economic development is forced underground, so are not eligible for SBA assistance.
- Even though 75% of the students in these communities are eligible for free school lunches, and have more than enough students to fill schools within their subdivisions, schools — all under State control in Hawaii — are planned and built only at distant locations to support the plans of well-connected developers. By refusing State services, the State justifies refusing water. This means that emergency facilities and emergency water are not available within the communities, and these low-income students have no access to the subsidized meals or other activities meant for them outside of school hours.
- The County Department of Water Supply is able to supply water to its customers at rates well below the actual cost, because of public funding for wells. As well as State

funds, federal funds, from the U.S. Department of Agriculture, the Economic Development Administration, the Department of the Interior, and Housing and Urban Development have paid for shares of the costs for system development. However, expansion of the public system into these low-income communities is denied because, without government subsidies, expansion by the DWS into these areas would require a raise in the water rates for the existing subsidized customers.


- In addition, the DWS is the only eligible applicant for USDA Rural Utilities Water and Wastewater grants and loans. But it maintains that its responsibilities are only for existing customers. Therefore these communities are denied both access to these funds intended specifically for them, and for any emergency assistance that might result from loss of those services.

- The Kalapana Lava Flow Disaster of 1991 resulted in the loss of several water wells and systems, which were qualified for FEMA replacement aid. FEMA rules pointed to system replacement in the small-owner subdivisions to which most of the displaced residents moved, nearby but outside the high hazard zone. The State and the County went to extreme measures to avoid this, in order to use the FEMA funds to either enable further development in the high hazard area or in wealthy communities across the island.

- In the draft *Drought Plan*, it is acknowledged that communities dependent upon catchment are the most vulnerable. These small-owner communities are the major catchment communities in the State. Yet none of them are identified, while adjacent and much smaller communities, with subsidized public water systems and planned future developments by large landowners, are identified for assistance planning.

For more than ten years, advocates for these communities have taken this information to virtually every State and County agency. The consistent response has been, as described in the examples above, circular reasoning, buck passing, and feigned ignorance at the administrative levels. In addition, formal complaints against the discrimination have been met — at the federal negotiating table — with threats of retribution.

Sincerely,



Bonnie Goodell

Attachment: Map of Discrimination in Water Source Development on Hawaii Island

cc: E. Melodee Stith
Director of the Departmental Office for Equal Opportunity
U.S. Department of the Interior
Washington, D.C. 20240

Federal Emergency Management Agency
Office of Civil Rights
500 C Street S.W., Room 407
Washington, D.C. 20472

Mr. Richard J. Kennedy, Deputy Director
Block Grant Assistance Office, Grants Program
United States Department of Housing and Urban Development
451 7th Street SW
Washington, D.C. 20410

Mr. Wally Beyer, Administrator
Rural Utilities Service
United States Department of Agriculture
1400 Independence Avenue SW
Washington, D.C. 20250

Ms. Rosalyn Gray, Director
Office of Civil Rights
United States Department of Agriculture
1400 Independence Avenue SW
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Mr. Jeremiah Glassman, Chief
Education Section, Civil Rights Division
United States Department of Justice
P.O. Box 65958
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Ms. Norma Kantu, Assistant Secretary
Office of Civil Rights
United States Department of Education
330 C Street SW
Washington, D.C. 20202-1100

✓ Mr. Jonathon C. Fox, Assistant Administrator
Water Division
United States Environmental Protection Agency
401 M Street SW, MC4101
Washington, D.C. 20460

Continuing State water development in North Kona per 1993 North Kona Water Master Plan, to support schools, economic dev., housing, highways, and state parks: "recognizing the growing need for water service in North Kona."

Discrimination in Water Services on Hawai'i Island:

Public Domestic Water Sources (average LOS: one well per 700 households)
Showing discrimination against existing, low-income, small-owner subdivisions

